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4 208 South Jones Boulevard  
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8 and

9 MARK S. BOSCO, ESQ.  
10 Arizona Bar No. 010167  
11 TIFFANY & BOSCO, P.A.  
12 2525 East Camelback Road, Suite 300  
13 Phoenix, Arizona 85016  
14 Telephone: (602) 255-6000

15 Bank of America Mortgage Capital Corporation  
16 09-77522

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**UNITED STATES BANKRUPTCY COURT**  
**SOUTHERN DISTRICT OF NEVADA**

In Re:

Franklin G. Fuentes and Christine M. Fuentes

Debtors

09-23777-lbr

MS Motion No.  
Date:  
Time:

Chapter 13

**DECLARATION RE BREACH OF CONDITION**

STATE OF )  
)ss.  
COUNTY OF )

I, LeeAnn Anderson declare and state:

1. As to the following facts, I know them to be true of my personal knowledge, and if called upon to testify in this action, I could and would testify competently thereto.

2. I am an employee of Bank of America Mortgage Capital Corporation, Secured Creditor herein, and am most familiar with the loan and the ongoing litigation.

3. The real property subject to the Trust Deed is commonly described as 4703 Visconti Way, Las Vegas, NV 89141 and legally described as follows:

1 PARCEL ONE (1):

2 LOT 24 BLOCK A OF LAURENTIA AT SOUTHERN HIGHLANDS, AS SHOWN BY  
3 MAP THEREOF ON FILE IN BOOK 96, OF PLATS, PAGE 65, IN THE  
OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

4 RESERVING THEREFROM A NON-EXCLUSIVE RIGHT AND EASEMENT OF  
5 INGRESS, EGRESS, AND OF USE AND ENJOYMENT IN TO AND OVER THE  
COMMON ELEMENTS AS SET FORTH IN THE DECLARATION OF COVENANTS,  
6 CONDITION AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR  
SOUTHERN HIGHLANDS, RECORDED JANUARY 6, 2000 IN BOOK 20000106 AS  
7 DOCUMENT NO. 01678, AS THE SAME FROM TIME TO TIME BE AMENDED  
AND/OR SUPPLEMENTED IN THE OF OFFICE OF THE COUNTY RECORDER OF  
CLARK COUNTY, NEVADA.

8 PARCEL TWO (2):

9 A NON-EXCLUSIVE RIGHT AND EASEMENT OF INGRESS, EGRESS, AND OF  
10 USE AND ENJOYMENT IN TO AND OVER THE COMMON ELEMENTS AS SET  
FORTH IN THE DECLARATION OF COVENANTS, CONDITION AND  
11 RESTRICTIONS AND RESERVATION OF EASEMENTS FOR SOUTHERN  
HIGHLANDS, RECORDED JANUARY 6, 2000 IN BOOK 20000106 AS  
12 DOCUMENT NO. 01678, AS THE SAME FROM TIME TO TIME BE AMENDED  
AND/OR SUPPLEMENTED IN THE OFFICE OF THE COUNTY RECORDER OF  
13 CLARK COUNTY, NEVADA.

14 4. I have examined the document entitled "Order Regarding Adequate Protection", a copy of  
15 which is attached hereto and marked as Exhibit "A" and incorporated herein by this reference, and am  
16 representing my personal knowledge as to whether the Debtors have complied with the requirements of said  
17 Order.

18 5. Pursuant to the aforementioned Order, the Debtors would have fifteen (15) days from the  
19 date of this Declaration in which to cure the delinquencies due. If upon the 16<sup>th</sup>) day, Debtors has failed to  
20 so cure those delinquencies, the automatic Stay Order would be vacated and extinguished as to this Secured  
21 Creditor.

22 6. As of the date of this Declaration, the Debtors have not made the payments as required by  
23 the aforementioned Order. The Debtors are presently past due as follows:

24 2 Monthly Payments at \$2,815.57	\$5,631.14
(August 1, 2010 - September 1, 2010)	
25 2 Late Charges at \$112.83	\$225.66
(August 1, 2010 - September 1, 2010)	
26 2 Adequate Protection Charges at \$1,616.70	\$3,233.40
(August 1, 2010 - September 20, 2010)	
Total	\$9,090.20

7. Debtors are responsible for the subsequent payments that will come due during this  
Breach period:

- a. 1 Monthly Payment at \$2,815.57
- b. 0 Stipulated payments

**PARTIAL TENDERS WILL NOT BE ACCEPTED**

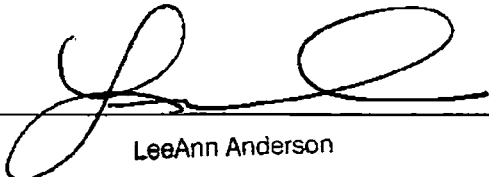
8. Due to Debtors' failure to timely and properly comply with the Order as set forth  
hereinabove, Secured Creditor has been forced to incur additionally attorneys' fees to obtain relief from the  
Stay Order to take possession of its real property.

9. These attorneys' fees are in addition to attorneys' fees incurred prior to the non-compliance  
and are now owing to Secured Creditor from Debtors pursuant to the Trust Deed.

10. Should the Debtor cure the default, the Debtors must forward the funds to:

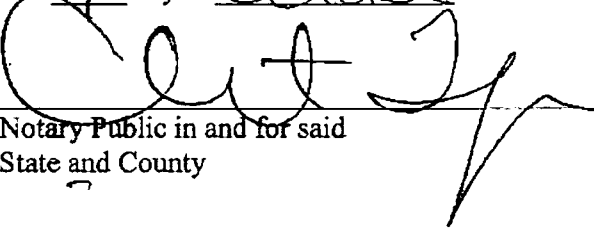
**GREGORY L. WILDE, ESQ.**  
**WILDE & ASSOCIATES**  
**212 South Jones Boulevard**  
**Las Vegas, Nevada 89107**

I declare under penalty of perjury that the foregoing is true and correct.

  
\_\_\_\_\_  
LeeAnn Anderson

VP Loan Documentation

SUBSCRIBED and SWORN to before me  
this 1 day of October, 2010

  
\_\_\_\_\_  
Notary Public in and for said  
State and County





Electronically Filed \_\_\_\_\_

Entered on Docket  
March 15, 2010

A handwritten signature in dark ink, appearing to read "L. B. Riegler", is written over a horizontal line.

Hon. Linda B. Riegler  
United States Bankruptcy Judge

WILDE & ASSOCIATES  
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212 South Jones Boulevard  
Las Vegas, Nevada 89107  
Telephone: 702 258-8200  
Fax: 702 258-8787  
Bank of America Mortgage Capital Corporation  
09-77522 / 0028813541

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In Re:

Franklin G. Fuentes and Christine M. Fuentes

Debtors.

BK-S-09-23777-lbr

MS Motion No.  
Date: February 9, 2010  
Time: 10:30 a.m.

Chapter 13

**ORDER RE ADEQUATE PROTECTION**

Secured Creditor's Motion for Relief from the Automatic Stay having come on for hearing in the above-entitled Court, all appearances as noted on court record, and based upon all the papers and pleadings on file herein and good cause appearing therefore,

EXHIBIT "A"

1 IT IS HEREBY ORDERED, ADJUDGED and DECREED that the debtors will cure the  
2 post-petition arrearages currently due as follows:

3	3 Monthly Payments at \$2,815.56	\$8,446.68
	(December 1, 2009 - February 1, 2010)	
4	2 Late Charges at \$112.83	\$225.66
	(November 1, 2009 - January 1, 2010)	
5	Property Inspections	\$15.00
6	Motion for Relief Filing Fee	\$150.00
	Attorneys Fees	\$750.00
7	Total	\$9,587.34

8  
9 The total arrearage shall be paid in six monthly installments. Payments one  
10 through five (1-5) in the amount of \$1,616.70 shall be in addition to the regular monthly payment  
11 and shall be due on or before the 20th day of the month commencing with the March 20, 2010  
12 payment and continuing throughout and concluding on or before July 20, 2010. The sixth final  
13 payment in the amount of \$1,616.67 shall be paid on or before August 20, 2010.

14 IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Secured Creditor  
15 shall give Debtors at least seven business days' notice of the time, place and date of sale.

16 IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Debtors shall resume  
17 and maintain the regular monthly payments in a timely fashion, outside of any Bankruptcy Plan,  
18 beginning with the March 1, 2010, payment, on Secured Creditor's Trust obligation, encumbering  
19 the subject Property, generally described as 4703 Visconti Way, Las Vegas, NV 89141, and  
20 legally described as follows:

21 PARCEL ONE (1):

22 LOT 24 BLOCK A OF LA JURENTIA AT SOUTHERN HIGHLANDS, AS SHOWN BY  
23 MAP THEREOF ON FILE IN BOOK 96, OF PLATS, PAGE 65, IN THE  
24 OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

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COMMON ELEMENTS AS SET FORTH IN THE DECLARATION OF COVENANTS,  
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SOUTHERN HIGHLANDS, RECORDED JANUARY 6, 2000 IN BOOK 20000106 AS  
DOCUMENT NO. 01678, AS THE SAME FROM TIME TO TIME BE AMENDED  
AND/OR SUPPLEMENTED IN THE OFFICE OF THE COUNTY RECORDER OF  
CLARK COUNTY, NEVADA.

PARCEL TWO (2):

A NON-EXCLUSIVE RIGHT AND EASEMENT OF INGRESS, EGRESS, AND OF

1 USE AND ENJOYMENT IN TO AND OVER THE COMMON ELEMENTS AS SET  
2 FORTH IN THE DECLARATION OF COVENANTS, CONDITION AND  
3 RESTRICTIONS AND RESERVATION OF EASEMENTS FOR SOUTHERN  
4 HIGHLANDS, RECORDED JANUARY 6, 2000 IN BOOK 20000106 AS  
DOCUMENT NO. 01678, AS THE SAME FROM TIME TO TIME BE AMENDED  
AND/OR SUPPLEMENTED IN THE OFFICE OF THE COUNTY RECORDER OF  
CLARK COUNTY, NEVADA.

5 IT IS FURTHER ORDERED, ADJUDGED and DECREED that if the Debtors fail to make  
6 any payments as stated in this Order, or fail to maintain the regular monthly payments on Secured  
7 Creditor's Trust Deed obligation, allowing the normal grace period, then Secured Creditor may file  
8 and serve upon Debtors and Debtors' counsel, a fifteen (15) Day Notice Declaration Re Breach of  
9 Condition. For each such Declaration Re Breach of Condition filed, there shall be assessed an  
10 attorney fees of \$100.00, to be paid by the Debtors upon any reinstatement. If upon the sixteenth  
11 (16th) day Debtors have failed to cure the delinquency, then Secured Creditor may submit to this  
12 Court an Order vacating the automatic stay as to Secured Creditor, and Secured Creditor may  
13 thereafter proceed with foreclosure proceedings upon the subject Property, pursuant to applicable  
14 State Law, and take any action necessary to obtain complete possession thereof.

15 Submitted by:

16 WILDE & ASSOCIATES

17  
18 By /S/GREGORY L. WILDE  
19 GREGORY L. WILDE, ESQ.  
20 Attorneys for Secured Creditor  
21 212 South Jones Boulevard  
Las Vegas, Nevada 89107

22 APPROVED AS TO FORM & CONTENT:

23 Kathleen A Leavitt

24 By \_\_\_\_\_

25 Kathleen A Leavitt  
26 Chapter 13 Trustee  
201 Las Vegas Blvd., So. #200  
Las Vegas, NV 89101

Sam Benevento

By \_\_\_\_\_

Sam Benevento  
Attorney for Debtors  
1945 E. Warm Springs Road  
Las Vegas, NV 89119

Nevada Bar No. 3676

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15 Bank of America Mortgage Capital Corporation  
16 09-77522

17 **UNITED STATES BANKRUPTCY COURT**  
18 **SOUTHERN DISTRICT OF NEVADA**

19 In Re:

09-23777-lbr

20 Franklin G. Fuentes and Christine M. Fuentes

MS Motion No.

Date:

Time:

Chapter 13

21 Debtors.

22 **CERTIFICATE OF MAILING OF**  
23 **DECLARATION RE BREACH OF CONDITION**

24 1. On 10/4/10 I served the following documents(s):

25 DECLARATION RE BREACH OF CONDITION

26 2. I served the above-named document(s) by the following means to the persons as listed below:

X a. ECF System

1 Sam Benevento  
2 generaldelivery@nevlawyers.com  
3 Attorney for Debtors

4 Kathleen A Leavitt  
5 courtsecf3@las13.com  
6 Trustee

7 **X b. United States mail, postage fully prepaid:**

8 Franklin G. Fuentes and Christine M. Fuentes  
9 4703 Visconti Way  
10 Las Vegas, NV 89141  
11 Debtors

12 ☐ **c. Personal Service** (List persons and addresses. Attach additional paper if necessary)

13 I personally delivered the document(s) to the persons at these addresses:

14 ☐ 1. For a party represented by an attorney, delivery was made by handing the  
15 document(s) to the attorney's office with a clerk or other person in charge, or if no one is charge  
16 by leaving the document(s) in a conspicuous place in the office.

17 N/A

18 ☐ 2. For a party, delivery was made by handing the document(s) to the party or  
19 by leaving the document(s) at the person's dwelling house or usual place of abode with someone  
20 of suitable age and discretion residing there.

21 N/A

22 ☐ **d. By direct mail** (as opposed to through the ECF System)

23 *(List persons and email addresses. Attach additional paper if necessary)*

24 Based upon the written assignment of the parties to accept service by email or a court order. I  
25 caused the document(s) to be sent to the persons at the mail addresses listed below. I did not  
26 receive, within a reasonable time after the transmission, any electronic message or other  
indication that the transmission was unsuccessful.

☐ **e. By fax transmission** *(List persons and fax numbers. Attach additional paper if necessary)*

Based upon the written assignment of the parties to accept service by fax transmission or  
a court order. I faxed the document(s) to the persons at the fax numbers listed below. No error

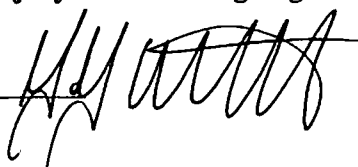


1 was reported by the fax machine that I used. A copy of the record of the fax transmission is  
2 attached.  
3

4 ☐ f. By messenger *(List persons and addresses. Attach additional paper if necessary)*  
5

6 I served the document(s) by placing them in an envelope or package addressed to the  
7 persons at the addresses listed below and providing them to a messenger for service.  
8 *( A declaration by the messenger must be attached to this Certificate of Service).*  
9

10 I declare under penalty of perjury that the foregoing is true and correct.  
11

12 Signed on: 10/4/10   
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